



CITY COUNCIL AGENDA REPORT

MEETING DATE: OCTOBER 18, 2005

ITEM NUMBER:

SUBJECT: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA AMENDING TITLE 13 OF THE COSTA MESA MUNICIPAL CODE REGARDING THE MASTER PLAN REVIEW PROCESS IN PLANNED DEVELOPMENT ZONES.

DATE: OCTOBER 5, 2005

FROM: DEVELOPMENT SERVICES DEPARTMENT/PLANNING DIVISION

PRESENTATION BY: KIMBERLY BRANDT, AICP, PRINCIPAL PLANNER

FOR FURTHER INFORMATION CONTACT: KIMBERLY BRANDT (714) 754-5604

RECOMMENDATION:

The Planning Commission recommends that City Council give first reading to the attached ordinance.

BACKGROUND/ANALYSIS:

In February 2005, City Council delegated the final review authority for master plan approvals to the Planning Commission and designated the Zoning Administrator as the review authority for master plan amendments. Subsequent to this ordinance adoption, staff identified other Zoning Code sections that need to be amended as well to reflect the change in the final review authority and to ensure internal consistency within the Zoning Code.

On a 5-0 vote, the Commission recommended that Council give first reading to the ordinance. For additional background information, please see the Planning Commission meeting minutes and staff minutes included in Attachment 2.

ALTERNATIVES CONSIDERED:

Council may choose to modify the ordinance in terms of any of the recommended modifications to the Zoning Code.

FISCAL REVIEW:

This ordinance does not require any fiscal review.

LEGAL REVIEW:

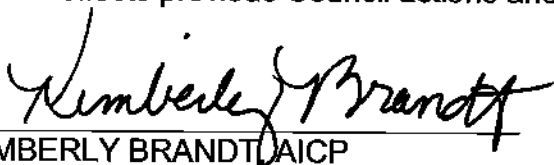
The City Attorney's Office has reviewed the ordinance and approved it as to form.

ENVIRONMENTAL DETERMINATION:

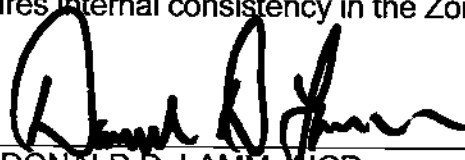
This code amendment has been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines, and the City's environmental procedures, and has been found to be exempt.

CONCLUSION:

The Planning Commission recommends that first reading be given to the attached ordinance, which reflects previous Council actions and ensures internal consistency in the Zoning Code.



KIMBERLY BRANDT, AICP
Principal Planner



DONALD D. LAMM, AICP
Deputy City Mgr. – Dev. Svs. Director

DISTRIBUTION: City Manager
 Assistant City Manager
 City Attorney
 Deputy City Manager – Dev. Svs. Director.
 Public Services Director
 City Clerk (2)
 Staff (4)
 File (2)

ATTACHMENTS: 1 Ordinance
 2 Planning Commission meeting minutes
 and staff report

File Name: 101805MasterPlan	Date: 092805	Time: 10:00 a.m.
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ATTACHMENT 1

ORDINANCE

ORDINANCE NO. 05-

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA AMENDING TITLE 13 OF THE COSTA MESA MUNICIPAL CODE REGARDING THE MASTER PLAN REVIEW PROCESS IN PLANNED DEVELOPMENT ZONES.

THE CITY COUNCIL OF THE CITY OF COSTA MESA DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Title 13 of the Costa Mesa Municipal Code is hereby amended to read as follows:

a. Amend Section 13-56(a) to read as follows:

“(a) Preliminary master plan. At the applicant's option, a preliminary master plan may be processed in advance of the master plan pursuant to CHAPTER III PLANNING APPLICATIONS. The purpose of the preliminary master plan shall be to determine the general location, type, and intensities of uses proposed in large scale planned developments prior to the preparation and submittal of more detailed development plans. Preliminary master plans may also be used as the conceptual plan for long-term or phased planned developments.

Upon approval of the preliminary master plan, development plans for individual components or phases of the planned development shall be required and shall be processed according to the provisions for master plans in CHAPTER III PLANNING APPLICATIONS. The subsequent plans shall be consistent with the parameters and general allocation and intensity of uses of the approved preliminary master plan. At the time of approval of the preliminary master plan, the ~~City Council~~ Planning Commission may determine that subsequent development plans may be approved by the ~~Planning Commission~~ Zoning Administrator. In such cases, development plans will be forwarded by the ~~Planning Commission~~ Zoning Administrator, upon an appeal filed pursuant to TITLE 2, CHAPTER IX APPEAL, REHEARING AND REVIEW PROCEDURE, or upon motion by the Planning Commission or City Council.”

b. Amend Sections 13-57(a)(3) and (4) as follows:

“(3) As a complementary use, nonresidential use of a religious, educational, or recreational nature may be allowed if the ~~City Council~~ Planning Commission finds the use to be compatible with the Planned Development residential project.

(4) As a complementary use in the PDR-MD, PDR-HD and PDR-NCM zones, nonresidential uses of a commercial nature may be allowed if the ~~City Council~~ Planning Commission finds the uses to be compatible with the Planned Development Residential project and if the FAR does not exceed that established for the Neighborhood Commercial General Plan

land use designation."

c. Amend Section 13-57(b)(2) as follows:

"(2) As complementary uses, residential (density maximum of 20 dwelling units per acre) and industrial uses as well as other commercial and noncommercial uses of a similar or supportive nature to the uses noted in this subsection may be allowed if the ~~City Council~~ Planning Commission approves the uses as compatible with the Planned Development Commercial project based on compatible uses listed in the General Plan for the applicable land use designation subject to FAR limits. For the 1901 Newport Plaza property, a site-specific FAR of 0.70 for the commercial component and site-specific density of 40 dwelling units per acre for the residential component were established for 1901 Newport Boulevard pursuant to General Plan amendment GP-02-04."

d. Amend Section 13-57(c)(2) as follows:

"(2) As complementary uses, nonindustrial uses of a commercial nature or residential nature (density maximum of 20 dwelling units per acre) may be allowed if the ~~City Council~~ Planning Commission finds the uses to be compatible with the Planned Development Industrial project based on compatible uses listed in the General Plan for the applicable land use designation subject to FAR limits."

e. Amend Section 13-60(e) as follows:

"All or part of the area required may be provided in the common open space for multiple-story apartments or common interest developments where dwelling units have no ground floor access, or where for other reasons the ~~City Council~~ Planning Commission finds that the provision of all or part of the required private open space in the aforementioned manner is impractical or undesirable. In such cases, each dwelling unit above the first floor shall be provided with patio or deck area of not less than one 100 square feet. The required area may be provided in one or more patios or decks. In such cases, each dwelling unit shall be provided with a private patio or deck with no dimension less than 5 feet."

f. Amend Section 13-61(a) to read as follows:

"(a) In Planned Development Commercial and Planned Development Residential-North Costa Mesa districts, the required perimeter open space may include, in addition to landscaping, architectural features (such as arcades, awnings, and canopies) and hardscape features (such as paving, patios, planters, and street furniture) if the ~~City Council~~ Planning Commission determines that:

g. Amend Section 13-61(b) to read as follows:

(b) In Planned Development Commercial and Planned Development Residential-North Costa Mesa districts, buildings may encroach into the required perimeter open space if the ~~City Council~~ Planning Commission determines that:"

h. Amend Section 13-62(a)(3) as follows:

"(3) The ~~City Council~~ Planning Commission may also require dedication of development rights or scenic easements to assure that common open space shall be maintained."

i. Amend Section 13-62(b)(2) as follows:

"(2) Where appropriate, the internal circulation system shall provide pedestrian and bicycle paths that are physically separated from vehicular traffic to serve residential, nonresidential and recreational facilities provided in or adjacent to the planned development. Where designated bicycle paths or trails exist adjacent to the planned development, safe, convenient access shall be provided. The ~~City Council~~ Planning Commission may require, when necessary, pedestrian and/or bicycle overpasses, underpasses or traffic signalization in the vicinity of schools, playgrounds, parks, shopping areas or other uses that may generate considerable pedestrian and/or bicycle traffic."

j. Amend Section 13-62(c)(1) as follows:

"(1) The design of public and private streets within a planned development shall reflect the nature and function of the street. Existing City standards of design and construction may be modified only as is deemed appropriate by the ~~City Council~~ Planning Commission after recommendation by the City Engineer, Planning Division, Fire Chief and Police Chief. Right-of-way, pavement and street widths may only be reduced by the ~~City Council~~ Planning Commission where it is found that the final master plan for the planned development provides for the separation of vehicular and pedestrian traffic; that access for public safety and service vehicles is not impaired; and that adequate off-street parking has been provided."

Section 2. Environmental Determination. The project has been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines, and the City's environmental procedures, and has been found to be exempt.

Section 3. Inconsistencies. Any provision of the Costa Mesa Municipal Code or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to the extent necessary to affect the provisions of this Ordinance.

Section 4. Severability. If any chapter, article, section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance, or the application thereof to any person, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portion of this Ordinance or its application to other persons. The City Council hereby declares that it would have adopted this Ordinance and each chapter, article, section, subsection, subdivision, sentence, clause, phrase or portion thereof,

irrespective of the fact that any one or more subsections, subdivisions, sentences, clauses, phrases, or portions of the application thereof to any person, be declared invalid or unconstitutional. No portion of this Ordinance shall supersede any local, State, or Federal law, regulation, or codes dealing with life safety factors.

Section 5: This Ordinance shall take effect and be in full force thirty (30) days from and after the passage thereof and prior to the expiration of fifteen (15) days from its passage shall be published once in the ORANGE COAST DAILY PILOT, a newspaper of general circulation, printed and published in the City of Costa Mesa or, in the alternative, the City Clerk may cause to be published a summary of this Ordinance and a certified copy of the text of this Ordinance shall be posted in the office of the City Clerk five (5) days prior to the date of adoption of this Ordinance, and within fifteen (15) days after adoption, the City Clerk shall cause to be published the aforementioned summary and shall post in the office of the City Clerk a certified copy of this Ordinance together with the names and member of the City Council voting for and against the same.

PASSED AND ADOPTED this ____ day of _____, 2005

Mayor

ATTEST:

APPROVED AS TO FORM:

City Clerk of the
City of Costa Mesa

City Attorney

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF COSTA MESA)

I, Julie Folcik, Deputy City Clerk and ex-officio clerk of the City Council of the City of Costa Mesa, hereby certify that the above and foregoing Ordinance No. 05-__ was introduced and considered section by section at a regular meeting of said City Council held on the ____ day of _____, 2005, and thereafter passed and adopted as a whole at a regular meeting of said City Council held on the ____ day of _____, 2005, by the following roll call vote:

AYES:

NOES:

ABSENT:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of the City of Costa Mesa this ____ day of _____, 2005.

Deputy City Clerk and ex-officio
Clerk of the City Council of the
City of Costa Mesa

ATTACHMENT 2

PLANNING COMMISSION MEETING MINUTES AND STAFF REPORTS

Excerpt from the Minutes of the Planning Commission Meeting of September 26, 2005

**ORDINANCE REGARDING
THE MASTER PLAN REVIEW
PROCESS IN PLANNED
DEVELOPMENT ZONES**

City

The Chair opened the public hearing for consideration of an ordinance regarding the Master Plan Review Process in Planned Development Zones for the City Council of the City of Costa Mesa, California, amending Title 13 of the Costa Mesa Municipal Code. Environmental determination: exempt.

Principal Planner Kimberly Brandt reviewed the information in the staff report and gave a presentation. She said staff was recommending that Planning Commission recommend to City Council to give ordinance first reading.

Commissioner Garlich said for the record, Planning Commission and City Council have already taken action on master plans to give the Planning Commission the final authority on master plans and the Zoning Administrator as final authority on modifications or revisions to master plans. Ms. Brandt added that these amended additional code sections need to be consistent with that previous action.

No one else wished to speak and the Chair closed the public hearing.

MOTION:

Master Plan Review Process In
Planned Development Zones
Recommended to City Council

A motion was made by Commissioner Garlich, seconded by Chair Perkins and carried 5-0 to recommend to City Council that the ordinance be given first reading.

**PLANNING COMMISSION
COMMENTS/SUGGESTIONS:**

place, the problem is exacerbated.


Commissioner Garlich noted that the President signed the Transportation Bill that Congress finally processed within the last two weeks. He said in Costa Mesa that bill was the means to eventually obtain approval for the Susan Street off ramp which will service the Home Ranch project and was something discussed during the Home Ranch hearings but was not a mitigation measure or an element of the development agreement; it was the developer's private funding that was going to do that. In this particular case, this was the mechanism by which the private sector would get to build an off-ramp that will take a lot of the incoming traffic off the arterials in that area of Costa Mesa.

Vice Chair Hall stated that yesterday's Orange County Register printed and evaluation of the police agencies throughout Orange County and were divided into small, medium and large cities with different populations. He announced that the City of Costa Mesa is number one in the County for cities with more than 100,000 population (response time, solving crimes, etc.) with a 5-star rating for Chief John Hensley.

CONSENT CALENDAR:

None.

PUBLIC HEARINGS:


AN ORDINANCE
AMENDMENTS REGARDING PLACES OF
RELIGIOUS ASSEMBLY IN COMMERCIAL
ZONES, INCIDENTAL RETAIL SALES IN
INDUSTRIAL ZONES, MASTER PLAN
REVIEW PROCESS IN PLANNED
DEVELOPMENT ZONES AND CHAIN LINK
FENCING IN NONRESIDENTIAL ZONES

CITY

The Chair opened the public hearing for consideration of an ordinance of the City Council of the City of Costa Mesa, California, amending Title 13 of the Costa Mesa Municipal Code regarding churches/places of religious assembly in commercial zones, incidental retail sales in industrial zones, the master plan review process in planned development zones, and chain link fencing in non-residential zones. Environmental determination: exempt.

Principal Planner Kimberly Brandt reviewed the information in the staff report and gave a brief overview of each of the four amendments in the ordinance. She said staff was recommending that Planning Commission recommend to City Council to give ordinance first reading.

In response to a question from Commissioner Fisler concerning applications for churches in commercial zones, Ms. Brandt stated that in recent history, the churches reviewed by Planning Commission have been located in industrial zones and she knew of none recently that were within a commercial zone, and none pending at this time.

In response to a question from the Chair, Ms. Brandt explained that these amendments came from Planning Division staff in consultation with the City Attorney's Office regarding the permitting of churches within the City's Zoning Code Matrix. Deputy City Attorney Tom Duarte stated that this was his understanding as well. He stated that City Attorney Kim Barlow generated the first part of the ordinance. He said if the Chair needs additional background as to the reasons, the City Attorney's Office would be happy to bring back a memo in addition to the staff report. The Chair asked Mr. Duarte if he knew of any other cities in Orange County that have something similar in relation to religious activities or churches. Mr. Duarte did not know of any at this time, however, he said they do represent a few other cities but he did not have those code sections memorized. Vice Chair Hall asked the Chair if he was specifically talking about the churches or the full ordinance. Chair Perkins said he was speaking about all items and asked Mr. Duarte if they were doing all four at once because it would go more smoothly. Mr. Duarte explained that it was being reviewed as presented since it was noticed that way, but he said the Commission has the right to break it up if they so desire.

Mike Berry, commented that he did not understand why the City is "streamlining" a process. He said one of the problems in Costa

Mesa is that the City is built out and there is no place left to put anything, yet every time we take a piece of property and move it into a "non-taxed" use, we take money out of our own pockets. He felt there should be a public hearing.

Martin Millard, 2973 Harbor Boulevard; Costa Mesa, felt it was a mistake to recommend this ordinance to City Council and agreed that CUP process should be instituted to review the applicants. He also felt this action would allow "store front" churches. He said most give out food or other benefits and attracts a population that may need churches, but also needs food and other things and the churches become that kind of place. He also felt the words "final authority" should be changed in item #3 under Description; 3.; "To designate the Planning Commission as the final review authority in the master plan review process" and should instead read "primary review authority."

Christian Eric, a Placentia Avenue resident, Costa Mesa, felt it was wrong for the City to be putting churches into storefront properties. He asked the Commission not to allow this kind of thing to come about.

Beth Refakas, 320 Magnolia Street, Costa Mesa, agreed with the previous speakers regarding the churches. She also felt chain link fencing should be phased out completely and more expediently than is called for in the ordinance.

Council Member Eric Bever stated that in reviewing the staff report for this item, he felt it was lacking in certain regards. He said generally, when something of this nature is brought forward, there is some basis for the change. He said his understanding is that the City has not addressed a storefront church issue in a commercial C1 or C2 zone in the last 5 years. Council Member Bever said he did not know if the Commission had received a memorandum from Mayor Monsoor concerning this issue and urging the Planning Commission to set this aside. He said he concurs with the Mayor's request and they have been unable to find the basis of this suggested change, and without that, he did not know how it was possible for the Planning Commission to deliberate. He pointed out what he believed to be an error in the report and wished to clarify. The Chair confirmed that the Planning Commission received the Mayor's memorandum.

No one else wished to speak, and the Chair closed the public hearing.

MOTION 1: PLACES OF RELIGIOUS ASSEMBLY IN COMMERCIAL ZONES; INCIDENTAL RETAIL SALES IN INDUSTRIAL ZONES; MASTER PLAN REVIEW PROCESS IN PLANNED DEVELOPMENT ZONES; AND CHAIN LINK FENCING IN NONRESIDENTIAL ZONES

FAILED FOR LACK OF A SECOND

MOTION 2: PLACES OF RELIGIOUS ASSEMBLY IN COMMERCIAL ZONES; INCIDENTAL RETAIL SALES IN INDUSTRIAL ZONES; MASTER PLAN REVIEW PROCESS IN PLANNED DEVELOPMENT ZONES; AND CHAIN LINK FENCING IN NONRESIDENTIAL ZONES

MOTION WAS NOT CALLED

SUBSTITUTE MOTION:
PLACES OF RELIGIOUS ASSEMBLY IN COMMERCIAL ZONES; INCIDENTAL RETAIL SALES IN INDUSTRIAL ZONES; MASTER PLAN REVIEW PROCESS IN PLANNED DEVELOPMENT ZONES; AND CHAIN LINK FENCING IN NONRESIDENTIAL ZONES

CONTINUED

A motion was made by Vice Chair Hall, to continue this item to the meeting of September 26, 2003 with the ordinance divided into 4 separate items.

A motion was made by Chairman Perkins, seconded by Vice Chair Hall, to take each individual item and vote on each separately to continue to the Planning Commission meeting of September 26, 2005 and directed staff to separate into four action items. *This motion was not called before a substitute motion was made.*

Commissioner Egan said she thought the Chair had seconded Vice Chair Hall's motion and had she known it had not been seconded, she would have done so. She said she would like to see the entire public hearing for item #1 be continued to September 26, 2005, because they could be discussed and voted on individually. She was asked if that was a motion and she agreed. The motion was seconded by Vice Chair Hall and carried 3 to 2 (Perkins and Fidler)

voted no).

During discussion on the motion, Commissioner Garlich felt this motion was the appropriate action. He said whether they are brought back separately, or in any other variation, they can be discussed independently of each other as has been done in the past; each one can be called for on a separate vote regardless of how they are packaged. He said he supported the motion.

Chair Perkins said he was not going to support the substitute motion this evening because he would like to take care of this item this evening. He commented on how easy it is to start a church and he did not want to see storefront churches in Costa Mesa. He maintained there was not enough background on the church item.

Commissioner Fisler said that previously he had asked Ms. Brandt how many people have applied for a church in the commercial zone because in order to find out the reason why this item is before the Commission. He said personally, he would like to reject this part of the ordinance this evening.

Commissioner Garlich stated that with regard to the item concerning churches, the issue the Commission is dealing with is whether they are permitted or whether they are a conditioned use. One of the things he would like to find out when more information is provided, under the heading of "background", is whether any of the things just said can be legally considered under a conditional use permit. He felt it would be better to have additional information to make a more informed decision on what the Commission is doing and why.

The Chair clarified with Ms. Brandt, a scenario of a church that would meet all requirements and standards to this point and as a result is permitted and would not have to come before the Commission.

Commissioner Egan explained that there are many things that could be done other than this ordinance and other than continuing with the current process. For example, as Mr. Millard suggested, concentrate churches by having an overlay zone where they would be permitted. She felt that when Kim Barlow returns, she may send the Commission a memo saying that an amendment to the current ordinance is legally required; if that is the case, the Commission needs to look at amending it.

The Chair said he appreciated Commissioner Egan's comments, but he would rather vote on it now, and if Ms. Barlow brings it back and says it's constitutionally incorrect and the Commission needs to make some changes, then it will make changes. He said Mr. Millard mentioned different areas of concentration and he agreed, but he said those are "spread out" areas; they're not right on top of each other. He said he felt the same way. He then called for the vote (3-2, as shown above).

The Chair opened the public hearing for consideration of an ordinance of the City Council of the City of Costa Mesa, California, amending Title 20 of the Costa Mesa Municipal Code regarding trash dumpsters/bins and trash enclosures. Environmental determination: Exempt.

Principal Planner Kimberly Brandt reviewed the information in the staff report and gave a presentation. She said staff was recommending that Planning Commission recommend to City Council to give ordinance first reading.

In response to a question from Commissioner Egan regarding a provision for a property owner who has an unusual hardship and to

AN ORDINANCE:
AMENDMENTS REGARDING TRASH
DUMPSTERS/BINS AND TRASH
ENCLOSURES

CITY



CITY OF COSTA MESA

P.O. BOX 1200 • 77 FAIR DRIVE • CALIFORNIA 92626-1200

DEVELOPMENT SERVICES DEPARTMENT

**FOR ATTACHMENTS NOT INCLUDED IN THIS
REPORT, PLEASE CONTACT THE CITY CLERK'S
OFFICE AT (714) 754-5121**